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**LANA C. SEIVERS, Ed.D.**  
COMMISSIONER

**MEMORANDUM**

**TO:** Special Education Supervisors

**FROM:** <sup>nm</sup> Nan McKerley, Director of Management Services

**SUBJECT:** December 1 Count of Eligible Private School Children with Disabilities

**DATE:** October 19, 2004

The federal regulations require that a proportion of your federal funds be used to provide services to children with disabilities in private schools. In order for you to know what proportion of IDEA, Part B (ages 3-21) funds and Preschool (ages 3-5) funds must be spent on providing these services, you must know the number of private school children with disabilities within your jurisdiction for both age groups. Regulations pertaining to this requirement are enclosed, along with an example of how to figure the proportionate amount of IDEA (3-21) funds. Children with disabilities in private schools (including home schools) should have been identified through your "child find" efforts. If you have not notified private schools of your child find efforts, you may want to ensure they are made aware of your efforts to evaluate any children suspected of having a disability.

It is your responsibility to arrive at the "proportionate amount" of federal funds for your system to spend on providing services to children with disabilities in private schools. However, if you will complete the information requested on both pages through "F. Total # of public & private children served", I will do the actual calculations for you when we receive information concerning the 2005-2006 allocations. Please return this information to your Management Consultant by December 15, 2004. Enclosed are the forms you will need to calculate the proportional amount for the 2005-2006 school year. Please remember that additional guidance may be located at <http://www.nichcy.org/private.htm> from the Office of Special Education Programs (OSEP). The memorandum is titled "Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools".

If you have any questions concerning this matter, please call your Management Consultant or Nan McKerley at 615-741-7796.

nm/bt

cc: Joseph Fisher  
RRC Coordinators  
Management Consultants

# IDEA REGULATIONS

## Children with Disabilities Enrolled by Their Parents in Private Schools

### § 300.450 Definition of “private school children with disabilities.”

As used in this part, *private school children with disabilities* means children with disabilities enrolled by their parents in private schools or facilities other than children with disabilities covered under §§ 300.400-300.402.

### § 300.451 Child find for private school children with disabilities.

- (a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA in accordance with §§ 300.125 and 300.220. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.
- (b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

### § 300.452 Provision of services – basic requirements.

- (a) *General.* To the extent consistent with their number and location in the State, provision must be made for the participation of private school children with disabilities in the program assisted or carried out under Part B of the Act by providing them with special education and related services in accordance with §§300.453 – 300.462.
- (b) *SEA Responsibility – services plan.* Each SEA shall ensure that, in accordance with paragraph (a) of this section and §§ 300.454-300.456 a services plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services under this part.

### § 300.453 Expenditures.

- (a) *Formula.* To meet the requirement of § 300.452(a), each LEA must spend on providing special education and related services to private school children with disabilities –
  - (1) For children aged 3 through 21, an amount that is the same proportion of the LEA’s total subgrant under section 611(g) of the Act as the number of private school children with disabilities aged 3 through 21 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 21; and
  - (2) For children aged 3 through 5, and amount that is the same proportion of the LEA’s total subgrant under section 619(g) of the Act as the number of private school children with disabilities aged 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 5.
- (b) *Child count:*
  - (1) Each LEA shall –
    - (i.) Consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities; and
    - (ii.) Ensure that the count is conducted on December 1 of each year.
  - (2) The child count must be used to determine the amount that the LEA must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.
- (c) *Expenditures for child find may not be considered.* Expenditures for child find activities described in § 300.451 may not be considered in determining whether the LEA has met the requirements of paragraph (a) of this section.
- (d) *Additional services permissible.* State and local education agencies are not prohibited from providing services to private school children with disabilities in excess of those required by this part, consistent with State law or local policy.

#### **§ 300.454 Services determined.**

(a) *No individual right to special education and related services.*

(1) No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(2) Decisions about the services that will be provided to private school children with disabilities under § 300.452-300.462, must be made in accordance with paragraphs (b), and (c) of this section.

(b) *Consultation with representatives of private school children with disabilities.*

(1) *General.* Each LEA shall consult, in a timely and meaningful way, with appropriate representatives of private school children with disabilities in light of the funding under § 300.453, the number of private school children with disabilities, the needs of private school children with disabilities, and their location to decide –

(i.) Which children will receive services under § 300.452;

(ii.) What services will be provided;

(iii.) How and where the services will be provided; and

(iv.) How the services provided will be evaluated.

(2) *Genuine opportunity.* Each LEA shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements in this section.

(3) *Timing.* The consultation required by paragraph (b)(1) of this section must occur before the LEA makes any decision that affects the opportunities of private school children with disabilities to participate in services under §§ 300.452-300.462.

(4) *Decisions.* The LEA shall make the final decisions with respect to the services to be provided to eligible private school children.

(c) *Services plan for each child served under §§300.450-300.462.* If a child with a disability is enrolled in a religious or other private school and will receive special education or related services from an LEA, the LEA shall –

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child in accordance with § 300.455(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

#### **§ 300.455 Services provided.**

(a) *General.*

(1) The services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

(2) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(3) No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school.

(b) *Services provided in accordance with a service plan.*

(1) Each private school child with a disability who has been designated to receive services under § 300.452 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined through the process described in §§ 300.453-300.454, it will make available to private school children with disabilities.

(2) The services plan must, to the extent appropriate-

(i) Meet the requirements of § 300.347, with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§ 300.342-300.346.

**§ 300.456 Location of services; transportation.**

- (a) *On-site.* Services provided to private school children with disabilities may be provided on-site at a child's private school, including a religious affiliated school, to the extent consider with law.
- (b) *Transportation. General.*
  - (i) If necessary for the child to benefit from or participate in the services provided under this part, a private school child with a disability must be provided transportation-
    - (A) From the child's school or the child's home to a site other than the private school; and
    - (B) From the service site to the private school, or to the child's home, depending on the timing of the services.
  - (ii) LEAs are not required to provide transportation from the child's home to the private school.
  - (C) *Cost of transportation.* The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of § 300.453.

**§ 300.457 Complaints**

- (a) *Due process inapplicable.* The procedures in §§ 300.504-300.515 do not apply to complaints that an LEA has failed to meet the requirements of §§ 300.452-300.462, including the provision of services indicated on the child's services plan.
- (b) *Due process applicable.* The procedures in §§ 300.504-300.515 do apply to complaints that an LEA has failed to meet the requirements of § 300.451, including the requirements of §§ 300.530-300.543.
- (c) *State Complaints.* Complaints that an SEA or LEA has failed to meet the requirements of §§ 300.451-300.462 may be filed under the procedures in §§ 300.660-300.662.

**SERVICES PROVIDED TO CHILDREN WITH DISABILITIES  
UNILATERALLY PLACED BY PARENTS IN PRIVATE SCHOOLS  
FEDERAL REGULATIONS 300.453 - .457**

# private school children with disabilities *			# public school children with disabilities*			= % of federal allocation	% of federal allocation	X	IDEA allocation	= proportionate amount private school services
# private school children with disabilities*	+		# public school children with disabilities*	=						
$\frac{50}{50 + 950}$	=		$\frac{50}{1000}$	=	5%		5%	X	\$500,000	= \$25,000

**\* Federal Disabilities**

**LEA holds meeting with private school representatives (can hold one meeting)**

- 1. Which children?**
- 2. What services?**
- 3. How provided?**
- 4. How evaluated?**

**Services provided:**

- 1. Comparable in quality, not quantity**
- 2. No particular child**
- 3. On-site or provided transportation**

**Private school students' recourse:**

- **File an administrative complaint**
- **Mediation or due process hearing - regarding issues of child find § 300.457**





**CALCULATING PROPORTIONAL AMOUNT FOR  
SERVICES TO BE PROVIDED TO PRIVATE SCHOOL  
CHILDREN WITH DISABILITIES for SY 2005-06**

**School System:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**IDEA, PART B: As of December 1, 2004 enter the:**

- A. # of **eligible** children in public schools
- B. # of **eligible** children in private schools (residing in your district)
- C. Total # of **eligible** children for your district

3-5 Years

**On December 1, 2004 Census, our Child Count figures were:**

- D. Actual # of children **served** in public schools
- E. Actual # of children **served** in private schools
- F. Total # of public & private children served


Note – For D through F, this is the unduplicated number submitted on your census program for children served with an IEP or service plan.

**G. Total Federal flow-through funds for 619 (3-5 years) for SY 2005-06 are \$** \_\_\_\_\_

**FORMULA FOR CALCULATING PROPORTIONAL SHARE for 619:**

(B)	:	(C)	=	% *
% *	x	\$	=	\$
		Total LEA IDEA Allocation (G)		

This amount is the proportionate amount, i.e.; the money that must be spent for the group of parentally placed children in private schools.

\*Do not round off this percent.

**NOTES:**

1. Proportionate share for parentally placed private school children is based on the total number of eligible children residing in your district, **not** eligible children served.
2. Do **not** include functional delay or intellectually gifted in any of the above counts.

**Due: December 15, 2004 to your Management Consultant**



CALCULATING PROPORTIONAL AMOUNT FOR  
SERVICES TO BE PROVIDED TO PRIVATE SCHOOL  
CHILDREN WITH DISABILITIES for SY 2005-06

School System: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**IDEA, PART B:** As of December 1, 2004 enter the:

- A. # of **eligible** children in public schools
- B. # of **eligible** children in private schools (residing in your district)
- C. Total # of **eligible** children for your district

3-21 Years

**On December 1, 2004 Census, our Child Count figures were:**

- D. Actual # of children **served** in public schools
- E. Actual # of children **served** in private schools
- F. Total # of public & private children **served**


**Note** – For D through F, this is the unduplicated number submitted on your census program for children served with an IEP or service plan.

**G. Total Federal flow-through funds for 611 (3-21 years) for SY 2005-06 are \$** \_\_\_\_\_

**FORMULA FOR CALCULATING PROPORTIONAL SHARE for 611:**

(B)	:	(C)	=	% *
_____		_____		_____
% *	x	\$	=	\$
_____		_____		_____
		Total LEA IDEA Allocation (G)		
				This amount is the proportionate amount, i.e.; the money that must be spent for the group of parentally placed children in private schools.

\*Do not round off this percent.

**NOTES:**

1. Proportionate share for parentally placed private school children is based on the total number of eligible children residing in your district, **not** eligible children served.
2. **Do not** include functional delay or intellectually gifted in any of the above counts.

**Due: December 15, 2004 to your Management Consultant**



**CALCULATING PROPORTIONAL AMOUNT FOR  
SERVICES TO BE PROVIDED TO PRIVATE SCHOOL  
CHILDREN WITH DISABILITIES for SY 2005-06**

**School System:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**IDEA, PART B:**      **As of December 1, 2004 enter the:**

- A. # of **eligible** children in public schools
- B. # of **eligible** children in private schools (residing in the LEAs district)
- C. Total # of **eligible** children for your district

<b>3-21 Years</b>
329
3
332

**On the December 1, 2004 Census, our Child Count figures were:**

- D. actual # of children **served** in public schools
- E. actual # of children **served** in private schools

329
1
330

- F. Total # of public & private children **served** \*

Note – For D through F, this is the unduplicated number submitted on your census program for children served with an IEP or service plan.

**G. Total Federal flow-through funds for 611 (3-21 years) for SY 2005-06 are \$ 253,796.00**

**FORMULA FOR CALCULATING PROPORTIONAL SHARE for 611:**

$$\begin{array}{rcll} \text{(B)} & 3 & : & \text{(C)} \quad 332 \\ & & & = 9.036144578313253012048192771 \\ & & & 08\text{e-}3 * \\ \hline 9.03614457831325301204819 & \times & \$ 253,796.00 & = \\ 277108\text{e-}3 * & & & \$ 2,293.34 \\ \hline & & \text{Total LEA IDEA Allocation (G)} & \end{array}$$

**This amount is the proportionate amount, i.e.; the money that must be spent for the group of parentally placed children in private schools.**

\*Do not round off this percent.

**NOTES:**

1. Proportionate share for parentally placed private school children is based on the total number of eligible children residing in your district, **not** eligible children served.
2. **Do not** include functional delay or intellectually gifted in any of the above counts.